

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINARECEIVED
USDC, CLERK, CHARLESTON, SC

Joseph C. Sun,)	Civil Action No. 9:08-cv-04021-RMG
)	209 FEB 18 A 8:58
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
Officer Joe L. Loadholt,)	
)	
Defendant.)	
)	
)	

This Court has issued three orders in this matter related to whether Officer Joe L. Loadholt was properly served with the Complaint in this matter given apparent discrepancies in the Record as to the proper place of Officer Loadholt's employment. (Dkt. Nos. 98, 103, & 108). In its final order, this Court dismissed Plaintiff's action for failure to prosecute due to Plaintiff's failure to comply with its two prior orders requiring Plaintiff to provide further evidence of proper service on Defendant Loadholt. (Dkt. No. 108). After this Court issued its order dismissing Plaintiff's case, the Court received a Declaration from Plaintiff attempting to comply with the Court's orders regarding service. (Dkt. No. 109). Though Plaintiff's submission is untimely, the Court has considered the Declaration and finds that Plaintiff has attempted, in good faith, to comply with this Court's directive to provide further evidence of proper service. Therefore, this Court's order dismissing Plaintiff's case for failure to prosecute is hereby **VACATED**. Plaintiff's action is restored to the docket and Defendant Officer Joe L. Loadholt remains in default.

Nonetheless, Plaintiff's Declaration still leaves many issues regarding Officer Loadholt's employment in doubt and, therefore, the question remains open as to whether

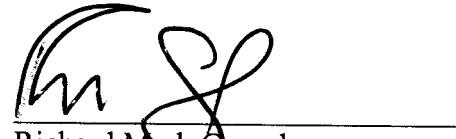
Office Loadholt has ever been served with this lawsuit. Therefore, this Court hereby orders that Plaintiff Joseph C. Sun appear before this honorable court to show cause that he properly served Officer Loadholt. Mr. Sun shall be prepared to offer testimony to provide further clarification related to his Declaration, including but not limited to, to whom he spoke with at the varying law enforcement agencies he contacted. (*See* Dkt. No. 109). Moreover, the Court hereby directs Office Joe L. Loadholt to appear before this honorable court to show cause as to why he has failed to respond previously in this matter and to be prepared to offer testimony as to whether his signature is contained on the return receipt filed in this matter by Plaintiff. (*See* Dkt. No. 13 at p. 3, attached hereto as Exhibit 1). The United States Marshals Service is directed to attempt to serve Officer Loadholt personally with a copy of this Order. While the address and employer of Office Loadholt remains a mystery in this matter, the Court has reason to believe, based on Plaintiff's allegations and the public record that at one time or another, Office Loadholt was employed at the below law enforcement agencies:

- Town of Ridgeland Police Department
- Town of Yemassee Police Department
- Town of Estill Police Department

The Marshals Service is further directed to use any other available resources to find and properly serve Officer Joe L. Loadholt should personal service not be achieved at any of the above departments.

Both Plaintiff Joseph C. Sun and Office Joe L. Loadholt shall appear before this Court on **March 21, 2011 at 11:00 a.m.** at the United States Court for the District of South Carolina at 81 Meeting Street, Charleston, South Carolina.

AND IT IS SO ORDERED.



Richard Mark Oergel
United States District Court Judge

February 17, 2011
Charleston, South Carolina

Exhibit 1

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Entry Number 13 Page 3 of 3

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

SCDMV
 Stacey Smith
 407 Live Oak Dr.
 Ridgeland, SC 29936

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: *SCDMV*

3. Service Type

Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee)

 Yes

7008 1300 0000 4185 1574

CA 08-4021 #5

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Estill Police Dept.
 Joe L. Loadholt
 16 Church St.
 Estill, SC 29910

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: *SP 574*

3. Service Type

Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee)

 Yes

7008 1300 0000 4185 1567

CA 08-4021 #4

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540